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REMARKS

This response is intended as a full and complete response to the final Office Action mailed October 5, 2005. In the Office Action, the Examiner notes that claims 1-63 are pending and rejected. By this response, the claims continue unamended.

In view of the following discussion, Applicant submits that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicant believes that all of these claims are now in allowable form.

Applicant does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

35 U.S.C. §103 Rejection of Claims 1-5, 8, 9, 12-14, 16, 19-26, 29, 30, 33-35, 37, 40-47, 50, 51, 54-56, 58, 61-63

The Examiner has rejected claims 1-5, 8, 9, 12-14, 16, 19-26, 29, 30, 33-35, 37, 40-47, 50, 51, 54-56, 58, and 61-63 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,553,178-B2 to Abecassis (hereinafter "Abecassis") in view of U.S. Patent 6,510,209 to Cannon (hereinafter "Cannon") and U.S. Patent 6,757,906 to Look (hereinafter "Look"). Applicant respectfully traverses the rejection.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art, and there must be motivation to combine the cited references in a manner to obviate the claimed invention.

The Applicant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness of the claimed invention because (i) the Abecassis, Cannon and Look references, alone or in combination, fail to teach or suggest all of the limitations recited in claim 1, and thus fail to teach or suggest the Applicants' invention as a whole, and (ii) there is no motivation to combine the Look reference with the Abecassis and Cannon references in a manner to obviate the claimed invention.

Specifically, the Abecassis, Cannon and Look references, alone or in combination, fail to teach or suggest at least the "buffering the video program in response to the detection of the occurrence of the incoming request for communications" as recited in claim 1.

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The Abecassis reference discloses a video on demand system in which the user of the system may accept a communication during use of the system and, in response to the acceptance of such communication, cause a video server transmission to be paused. However, as the Examiner acknowledges, the “combination of Abecassis and Cannon fails to teach buffering the video program when paused” (page 5 of the 10/05/05 Office Action). Furthermore, the Applicants respectfully note that buffering the video program when paused is not what is claimed, but instead, “buffering the video program in response to the detection of the occurrence of the incoming request for communications” is recited in claim 1. The Applicants respectfully submit that, in addition to not teaching buffering the video program when paused, the Abecassis also does not teach buffering the video program in response to the detection of the occurrence of the incoming request for communications.

The Cannon reference fails to bridge the substantial gap between the Abecassis reference and Applicant's invention. The Cannon reference discloses a telephone enabling remote programming of a video recording device. The Cannon reference discloses that a VCR or videodisk player can be paused upon receipt of an incoming call. As recited above, the Examiner acknowledges that the “combination of Abecassis and Cannon fails to teach buffering the video program when paused” (page 5 of the 10/05/05 Office Action). However, the Applicants respectfully note that buffering the video program when paused is not what is claimed, but instead “buffering the video program in response to the detection of the occurrence of the incoming request for communications” is recited in claim 1. Therefore, the Applicants respectfully submit that Cannon reference also does not teach buffering the video program in response to the detection of the occurrence of the incoming request for communications.

The Examiner then relies upon the Look reference, and alleges as follows (emphasis added below):

“Look discloses a personal video recorder, which buffers an incoming live video program in response to a pause command (column 9, line 38-column 10, line 16, lines 41-50), thus reducing the time it takes to restart a program when it is resumed and providing perfect synchronization (column 10, lines 49-50).” (page 5 of the 10/05/05 Office Action)

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Thus, the Examiner alleges that the Look reference discloses buffering a live video program in response to a pause command. However, the Applicants respectfully disagree. Regarding a pause feature, the Look reference discloses (emphasis added below):

“The control object 917 accepts commands from the user and sends events into the pipeline to control what the pipeline is doing. For example, if the user has a remote control and is watching TV, the user presses pause and the control object 917 sends an event to the sink 903, that tells it pause. The sink 903 stops asking for new buffers. The current pointer 920 stays where it is at. The sink 903 starts taking buffers out again when it receives another event that tells it to play. The system is in perfect synchronization; it starts from the frame that it stopped at.” (column 10, lines 41-50)

Thus, the Look reference discloses that, in response to the user pressing pause on a remote control, a 'sink' stops asking for new buffers. The Look reference further discloses that a sink consumes buffers of data, as follows (emphasis added below):

“With respect to FIG. 8, the program logic within the CPU has three conceptual components: sources 801, transforms 802, and sinks 803. The sources 801 produce buffers of data. Transforms 802 process buffers of data and sinks 803 consume buffers of data. A transform is responsible for allocating and queuing the buffers of data on which it will operate. Buffers are allocated as if “empty” to sources of data, which give them back “full”. The buffers are then queued and given to sinks as “full”, and the sink will return the buffer “empty.” (column 8, line 66, to column 9, line 8)

Thus, in response to the user pressing pause on a remote control, a sink is instructed to stop consuming the buffer. This is in contrast to the allegation by the Examiner that the Look reference “buffers an incoming live video program in response to a pause command.” As can be seen from the above, there is no teaching in the Look reference regarding buffering live video in response to a pause command.

Further regarding buffering, the Look reference discloses (emphasis added below):

“The Media Switch 102 mediates between a microprocessor CPU 106, hard disk or storage device 105, and memory 104. Input streams are converted to an MPEG stream and sent to the Media Switch 102. The Media Switch 102 buffers the MPEG stream into memory. It then performs two operations if the user is watching real time TV: the stream is sent to the Output Section 103 and it is written simultaneously to the hard disk or storage device 105.” (column 5, lines 16-24)

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Thus, the Look reference discloses storing an MPEG stream if the user is watching real time TV. This is very different than the allegation by the Examiner that the Look reference discloses buffering in response to a pause command, which as discussed above, it does not.

Furthermore, what is claimed in claim1 is not buffering in response to a pause command, but rather "buffering the video program in response to the detection of the occurrence of the incoming request for communications". The Look reference provides no teaching of buffering an MPEG stream in response to the detection of an incoming request for communications.

Thus, the Abecassis, Cannon and Look references, alone or in any combination, fail to disclose or suggest Applicant's invention as a whole.

Furthermore, there is no motivation to combine the Look reference with the Abecassis and Cannon references. Regarding the motivation to combine the Look reference with the other references, the Examiner alleges:

"Look discloses a personal video recorder, which buffers an incoming live video program in response to a pause command (column 9, line 38-column 10, line 16, lines 41-50), thus reducing the time it takes to restart a program when it is resumed and providing perfect synchronization (column 10, lines 49-50).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Abecassis and Cannon to buffer the incoming video in response to a pause command for the advantage of thus reducing the time it takes to restart a program when it is resumed and providing perfect synchronization." (pages 5 and 6 of the 10/05/05 Office Action)

Thus, the Examiner alleges the motivation is, in part, to reduce the time it takes to restart a program when it is resumed. However, the Applicants respectfully submit that the Look reference provides no such teaching. In the section of the Look reference the Examiner cites as allegedly providing such a teaching, the Look reference actually discloses:

"The system is in perfect synchronization; it starts from the frame that it stopped at." (column 10, lines 49-50)

Thus, the Look reference does not teach "reducing the time it takes to restart a program when it is resumed," and thus this is not a proper motivation. The Examiner further

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alleges that the motivation is to provide perfect synchronization. However, this does not make any sense in light of the present invention. Perfect synchronization with what? How is this a motivation?

Thus, there is no motivation to combine the Look reference with the Abecassis and Cannon references. For this reason, the Applicants respectfully request that the Examiner remove the Look reference from the rejection.

As such, Applicant submits that independent claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Moreover, independent claims 22 and 43 contain substantially similar relevant limitations as those discussed above in regards to claim 1, and therefore are also patentable. Furthermore, dependent claims 2-5, 8, 9, 12-14, 16, 19-21, 23-26, 29, 30, 33-35, 37, 40-42, 44-47, 50, 51, 54-56, 58, and 61-63 depend, either directly or indirectly, from independent claims 1, 22, and 43 and recite additional limitations thereof. As such and at least for the same reasons as discussed above, Applicant submits that these dependent claims are also non-obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

35 U.S.C. §103 Rejection of Claims 6, 7, 27, 28, 48 and 49

The Examiner has rejected claims 6, 7, 27, 28, 48 and 49 as being unpatentable over Abecassis in view of Cannon and Look in view of the MSN Messenger Service (hereinafter "MSN"). Applicant respectfully traverses the rejection.

Claims 6, 7, 27, 28, 48 and 49 depend directly or indirectly from independent claims 1, 22 and 43. Moreover, for at least the reasons discussed above, the Abecassis, Cannon and Look references fail to teach or suggest Applicants' invention as recited in claims 1, 22 and 43. Accordingly, any attempted combination of the Abecassis, Cannon and Look references with any other additional references, in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claims. As such, Applicants submit that dependent claims 6, 7, 27, 28, 48 and 49 are not obvious and are patentable under 35 U.S.C. §103.

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Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

35 U.S.C. §103 Rejection of Claims 10-11, 31, 32, 52 and 53

The Examiner has rejected claims 10-11, 31, 32, 52 and 53 as being unpatentable over Abecassis in view of Cannon and Look in further view of U.S. Patent 6,349,410 to Lortz (hereinafter "Lortz"). Applicant respectfully traverses the rejection.

Claims 10-11, 31, 32, 52 and 53 depend directly or indirectly from independent claims 1, 22 and 43. Moreover, for at least the reasons discussed above, the Abecassis, Cannon and Look references fail to teach or suggest Applicants' invention as recited in claims 1, 22 and 43. Accordingly, any attempted combination of the Abecassis, Cannon and Look references with any other additional references, in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claims. As such, Applicants submit that dependent claims 10-11, 31, 32, 52 and 53 are not obvious and are patentable under 35 U.S.C. §103.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

35 U.S.C. §103 Rejection of Claims 15, 36 and 57

The Examiner has rejected claims 15, 36 and 57 as being unpatentable over Abecassis in view of Cannon and Look in further view of U.S. Patent 6,543,053 to Li (hereinafter "Li"). Applicant respectfully traverses the rejection.

Claims 15, 36 and 57 depend directly or indirectly from independent claims 1, 22 and 43. Moreover, for at least the reasons discussed above, the Abecassis, Cannon and Look references fail to teach or suggest Applicants' invention as recited in claims 1, 22 and 43. Accordingly, any attempted combination of the Abecassis, Cannon and Look references with any other additional references, in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claims. As such, Applicants submit that dependent claims 15, 36 and 57 are not obvious and are patentable under 35 U.S.C. §103.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

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35 U.S.C. §103 Rejection of Claims 17, 38 and 59

The Examiner has rejected claims 17, 38 and 59 as being unpatentable over Abecassis in view of Cannon and Look in further view of U.S. Patent 6,052,508 to Mincy (hereinafter "Mincy"). Applicant respectfully traverses the rejection.

Claims 17, 38 and 59 depend directly or indirectly from independent claims 1, 22 and 43. Moreover, for at least the reasons discussed above, the Abecassis, Cannon and Look references fail to teach or suggest Applicants' invention as recited in claims 1, 22 and 43. Accordingly, any attempted combination of the Abecassis, Cannon and Look references with any other additional references, in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claims. As such, Applicants submit that dependent claims 17, 38 and 59 are not obvious and are patentable under 35 U.S.C. §103.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

35 U.S.C. §103 Rejection of Claims 18, 39 and 60

The Examiner has rejected claims 18, 39 and 60 as being unpatentable over Abecassis in view of Cannon and Look in further view of the ReplayTV manual (hereinafter "ReplayTV"). Applicant respectfully traverses the rejection.

Claims 18, 39 and 60 depend directly or indirectly from independent claims 1, 22 and 43. Moreover, for at least the reasons discussed above, the Abecassis, Cannon and Look references fail to teach or suggest Applicants' invention as recited in claims 1, 22 and 43. Accordingly, any attempted combination of the Abecassis, Cannon and Look references with any other additional references, in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claims. As such, Applicants submit that dependent claims 18, 39 and 60 are not obvious and are patentable under 35 U.S.C. §103.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

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CONCLUSION

Thus, Applicant submits that none of the claims presently in the application are obvious under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Stephen Guzzi at (732) 383-1405 or Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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